



PUBLIC NOTICE

**Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554**

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DA 05-2991

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**Before the
Federal Communications Commission
Washington, D.C. 20554**

PUBLIC NOTICE

Released: November 18, 2005

FEE DECISIONS OF THE MANAGING DIRECTOR AVAILABLE TO THE PUBLIC

The Managing Director is responsible for fee decisions in response to requests for waiver or deferral of fees as well as other pleadings associated with the fee collection process. A public notice of these fee decisions is published in the FCC record.

The decisions are placed in General Docket 86-285 and are available for public inspection. A copy of the decision is also placed in the appropriate docket, if one exists.

The following Managing Director fee decisions are released for public information:

Atlantic Coast Radio, LLC - Request for waiver of a late charge penalty for FY 2004 regulatory fees.
Denied (June 6, 2005) [See 47 C.F.R § 1.1164]

E.N. Bisso, Inc. - Request for refund of regulatory fees. **Granted** (August 26, 2005) [See 47 C.F.R § 1.1152]

KM Television of Flagstaff, LLC - Request for waiver of FY 2004 regulatory fees for station KCFG (TV). **Granted** (June 6, 2005) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346-62 (1994)]

KM Television of Jackson, LLC - Request for waiver of FY 2004 regulatory fees for station KBEO (TV). **Granted** (June 6, 2005) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994)]

KNGS-FM, Coalinga, California - Request for waiver of FY 2003 regulatory fees. **Denied** (June 6, 2005) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12,759, 12762 para. 15 (1995)]

KZPE – FM, Ford City, California - Request for waiver of FY 2003 regulatory fees. **Denied** (June 6, 2005) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12,759, 12762 para. 15 (1995)]

KZPO – FM Lindsay, California - Request for waiver of FY 2003 and 2004 regulatory fees. **Denied** (June 6, 2005) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12,759, 12761-62 para. 15 (1995)]

North River Investments, Inc. – Request for waiver of filing fee for station KDDD (AM). **Granted** (August 23, 2005) [*See* 47 C.F.R § 1.1117]

Phonoscope - Request for waiver of a late charge penalty for FY 2004 regulatory fees. **Denied** (June 6, 2005) [*See* Assessment and Collection of Regulatory Fees for Fiscal Year 2004, Report and Order, Fed. 69 Reg. 41,027, 19 FCC Rcd 11,662 (2004)]

Runnels Broadcasting System, LLC – Request for waiver of FY 2004 regulatory fees. **Granted** (September 1, 2005) [*See* Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12761-62 (1995)]

Teton Management, Inc. and Teewinot Licensing, Inc. - Request for refund of application fees. **Granted** (August 26, 2005) [*See* 47 CFR § 1.1113(a)(4)]

Tyco Telecommunications (US), Inc. – Request for reduction of FY 2004 regulatory fees. **Denied** (June 30, 2005) [*See* 47 U.S.C. § 159(d); 47 C.F.R. § 1166; Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5344 ¶ 29 (1994), *recon. granted in part*, 10 FCC Rcd 12759, 12761, ¶12 (1995)]

Universal Access, Inc. - Request for waiver of FY 2004 regulatory fees. **Granted** (August 26, 2005) [*See* Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12761-62 (1995)]

Vitech Corporation- Request for waiver or a deferral of FY 2004 regulatory fees and application fees. **Granted** (August 23, 2005) [*See* 47 C.F.R § 1.1117]

NOTE: ANY QUESTIONS REGARDING THIS REPORT SHOULD BE DIRECTED TO THE REVENUE AND RECEIVABLES OPERATIONS GROUP AT (202) 418-1995.

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

June 6, 2005

Lisa Menconi
Atlantic Coast Radio, LLC
10940 Sunrise Ridge Circle
Auburn, California 95603

Re: Atlantic Coast Radio, LLC
Request for Waiver of FY 2004
Regulatory Fee Penalty
Fee Control No. 00000RROG-05-043

Dear Ms. Menconi:

This responds to your February 7, 2005 letter requesting waiver of the penalty for late payment of the fiscal year (FY) 2004 regulatory fees for Atlantic Coast Radio, LLC (Atlantic Coast Radio) in Auburn, California. The Commission previously denied your request by letter dated January 10, 2005. Our records show that the FY 2004 late payment penalty of \$2,306.25 has not been paid.

As we stated in our previous letter, we apologize for any inaccurate information that you may have been provided from informal Commission staff contacts. Moreover, we sympathize with your professed lack of familiarity with the Commission's requirements for regulatory fee payments. There is nothing in the information that you have submitted to us, however, that can serve as a basis for changing our earlier decision and waiving the late payment penalty that is made obligatory by federal law. As we advised previously, the Communications Act of 1934, as amended, requires the Commission to assess a late charge penalty of 25 percent on any regulatory fee not paid in a timely manner. It is the obligation of the licensee responsible for regulatory fee payments to ensure that the Commission receives the fee payment no later than the final date on which regulatory fees are due for the year. See 47 C.F.R. § 1.1164. Your request does not indicate or substantiate that you met this obligation. Nor does the statute permit the Commission to remove this obligation even under circumstances, such as those you recite, where the licensee may have received informal advice that was inconsistent with the Commission's published rules. Further, although you may not have been aware of or fully understood the Communications Act or the Commission's rules regarding regulatory fees, Commission licensees are expected to know and understand the requirements and rules governing their licenses.¹ Therefore, your request is denied.

¹ Among other things, the Commission issued Public Notices announcing the due date for payment of fees. In contrast to that which is provided by informal staff contacts, information concerning regulatory fees that is contained in the Commission's Orders and Public Notices, and on its website, serves as actual notice of its regulatory fee requirements. *See Assessment and Collection of Regulatory Fees for Fiscal Year 2004*, Report and Order, 19 FCC Rcd 11,662 (2004); *Public Notice*, July 2, 2004 (setting August 19, 2004 due date). *See also Public Notice*, DA 04-2215, July 21, 2004; *Public Notice*, DA 04-2262, July 23, 2004; *Public Notice*, DA 04-2549, August 18, 2004.

Ms. Lisa Menconi

2.

Payment of the \$2,306.25 penalty for late payment of the FY 2004 regulatory fee is now due. The late charge penalty should be submitted within 30 days of the date of this letter. If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Reger", with a stylized flourish at the end.

 Mark A. Reger
Chief Financial Officer

Atlantic Coast Radio, LLC

10940 Sunrise Ridge Circle
Auburn, California 95603
(530) 887-9090
(530) 887-9040 fax
lmenconi@sbcglobal.net

2nd Copy
Sent
9/29/04
UPS.

September 9, 2004

Federal Communications Commission
ATTN: Mark A. Reger, CFO
445 12th Street, S.W.
Washington, DC 20554

RE: Waiver for penalty for late regulatory fee payment (call sign: WLOB-FM; bill #0420000328; FRN #0003771128)

Mr. Reger:

We received a Bill for Collection dated 8/26/04 from the FCC which I believe is in error because it claims that we were late in paying our annual fees. Please let this letter represent our written request for a waiver of any and all penalties associated with Atlantic Coast Radio's annual FCC Regulatory Fees for reasons stated below.

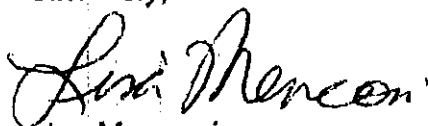
In preparation for payment of our annual FCC Regulatory Fees, I called the FCC on Tuesday, August 10, 2004 to confirm the fact that as long as our forms and payments were mailed by August 19, 2004 and properly postmarked as such, our payments would be considered on time. I went on to describe to the representative from the FCC that I would obtain evidence of mailing via Certified Mail (see attached) and she indicated that as long as it postmarked by August 19, 2004 everything would be fine. Unfortunately, I did not write down the name of who I spoke with that day, but the General Manager of the stations was present during my call and witnessed it and can corroborate my experience.

So, given that information, I mailed our regulatory fees on August 18, 2004 via Certified Mail. I was shocked and confused by the Bill for Collection that we received and so was my boss. I have called the Revenue & Receivable Ops Group several times and left a message with the manager, but she has never returned my calls. Ms. Penny from the Revenue & Receivable Ops Group has told me that our payment needed to be "postmarked by Melon Bank by August 19th". I reiterated my story to her and she continues to repeat that line. No one told me during my initial call on August 10th anything about Melon Bank. Furthermore, I have never heard of a bank 'postmarking' anything. The US Post Office postmarks (I thought).

Anyway, I was originally told that postal service postmark by 8/19/04 was considered proper and timely payment. I would appreciate it tremendously if you could waive any penalties associated with Atlantic Coast Radio, LLC. We have always paid in good faith and on time and feel that this instance is a miscommunication and that I was given incorrect information. Had I been given correct information, it would seem obvious that I would have sent it in sooner. Please feel free to contact me at the above number(s) if you need further information pertaining to this issue.

Thank you for your time and consideration with this matter.

Sincerely,

A handwritten signature in cursive script that reads "Lisa Menconi".

Lisa Menconi
Atlantic Coast Radio, LLC